

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

STACY LEITCH	:	Case No. 3:19-cv-00235
	:	
Plaintiff	:	Judge _____
	:	
v.	:	<u>NOTICE OF REMOVAL OF</u>
	:	<u>CIVIL ACTION</u>
WAL-MART, INC.	:	
	:	
Defendant.	:	

Defendant Wal-Mart, Inc., by and through counsel, and pursuant to 28 U.S.C. § 1446 and 28 U.S.C. § 1332, respectfully submits this Notice of Removal of Civil Action from the Greene County, Ohio Court of Common Pleas. In support of its Notice, Defendant states the following:

1.

On July 5, 2019, Plaintiff, Stacy Leitch (hereinafter “Plaintiff”), filed a complaint in the Court of Common Pleas, Greene County, Ohio and captioned *Stacy Leitch v. Wal-Mart, Inc.* Case No. 2019CV0447. (A true and correct copy of the Complaint is attached hereto as Exhibit A). According to the state court docket, the Complaint was served on Defendant Wal-Mart, Inc. on July 10, 2019.

In the Complaint, Plaintiff Stacy Leitch alleges that on July 22, 2017, she was injured as a result of a slip and fall on the premises of Wal-Mart located at 3360 Pentagon Boulevard, City of Beavercreek, Ohio. (Complaint at ¶ 2). The Complaint alleges that Plaintiff suffered severe and permanent injuries; pain and suffering, both physical and emotional; loss of ability to perform usual functions; lost wages; and reasonable and necessary medical expenses, as well as further

medical expenses to be incurred in the future. (*See id.* at ¶ 12). Wal-Mart, Inc. specifically denies any wrongdoing or civil liability to Plaintiff.

Plaintiff's Complaint names Wal-Mart, Inc. as the sole Defendant. As noted above and asserted in her Complaint, Plaintiff is an Ohio citizen. (*See* Complaint). Wal-Mart, Inc. is a Delaware Corporation with its principal place of business in Bentonville, Arkansas.

2.

This Notice of Removal is filed within thirty (30) days of service of the state court action and is therefore timely under 28 U.S.C. § 1446(b).

3.

The United States District Court for the Southern District of Ohio has diversity jurisdiction over this case pursuant to 28 U.S.C. § 1332. Removal is proper because:

(a) Plaintiff is an Ohio resident. (*See* Complaint);

(b) Defendant Wal-Mart, Inc. is a Delaware corporation. Its principal place of business is Bentonville, Arkansas. Wal-Mart, Inc. is not a resident of the state of Ohio.

(c) The amount in controversy in this case exceeds seventy-five thousand dollars (\$75,000). Plaintiff has placed no limitation on her prayer for relief, which demands monetary damages in excess of \$25,000.¹ (*See id.*). While the Complaint is silent as to the particular amount in controversy, it is apparent that the amount in controversy exceeds the minimum jurisdictional amount based on the alleged injuries. The Complaint alleges that Plaintiff suffered severe and permanent injuries; pain and suffering, both physical and emotional; loss of ability to perform

¹ *See, e.g., Sorenson v. Ashmore*, 4 F. Supp.2d 669, 670 (E.D. Tex. 1998) (holding that it was facially apparent from the prayer for relief in Plaintiff's Complaint that the amount in controversy exceeded \$75,000.00 where the Complaint merely sought an unspecified amount of attorneys' fees, actual damages, damages for emotional distress and punitive damages).

usual functions; lost wages; and reasonable and necessary medical expenses, as well as further medical expenses to be incurred in the future. (*See id.* at ¶ 12). Moreover, undersigned counsel requested that Plaintiff's counsel sign a Stipulation that alleged damages would not exceed \$75,000 and counsel failed to sign the same, further indicating that damages exceed \$75,000. (*See* Stipulation and Correspondence, attached as Exhibit B).

4.

Pursuant to 28 U.S.C. § 1446(d), written notice of the removal of this case (attached hereto as Exhibit C), together with a copy of this Notice of Removal is being filed with the Clerk of the Greene County, Ohio Court of Common Pleas and shall be served on Plaintiff. (A copy of the Answers filed in state Court is attached hereto as Exhibit D)

WHEREFORE, Defendant prays that this action be removed from the Greene County, Ohio Court of Common Pleas to the United States District Court for the Southern District of Ohio, Western Division at Dayton, and request that this Court assume full jurisdiction over the case herein as provided by law.

Respectfully submitted,

REMINGER CO., L.P.A.

/s/ Adair M. Smith

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Attorneys for Defendant Wal-Mart Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing was mailed by regular U.S. mail and/or e-mail this 6th day of
August, 2019:

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/s/ Adair M. Smith
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